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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,306	03/19/2004	Anthony E. Tognetti	5709-169	7334

7590

06/08/2006

David D. Murray
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

EXAMINER

STRIMBU, GREGORY J

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the member adapted to contact the body of the motor vehicle including a surface having flocking disposed thereon (see claim 3) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the member adapted to contact the body of the motor vehicle including a surface having flocking disposed thereon (see claim 3).

Claim Rejections - 35 USC § 112

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "said second, longer leg" on line 3 of claim 17 renders the claim indefinite because it lacks antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 7, 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover. Nowosiadly '631, in figure 8, discloses a weatherstrip for a window opening of a motor vehicle comprising, in combination, a generally U-shaped body 212 having a first, shorter leg 222 having a first

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end (not numbered, but shown in figure 8) and a second, longer leg 218 having a second end (not numbered, but shown in figure 8), a latch member 232 disposed on said second end, a first flange 206 and a second, spaced apart flange 250, the first and second flanges extending from said second leg, said first and second flanges each including a surface having flocking 246 and 252, respectively, disposed thereupon, a third flange 226 extending from the body 212 toward and engageable with an end of one of the first and second flanges, said shorter leg having a show surface including a layer 240, the first end includes a member 242, a pair of flanges 236. Nowosiadly '631 is silent concerning the show layer comprising a thermoplastic olefin material.

However, Dover discloses a weatherstrip comprising a show surface including a layer 50 wherein the layer 50 comprises a thermoplastic olefin material. See column 4, lines 19-66.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631 with a thermoplastic olefin material, as taught by Dover, to improve the aesthetics of the seal by matching the color of the seal to the color scheme of the vehicle.

Claims 9, 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover. Nowosiadly '631, in figure 8, discloses a weather strip for a motor vehicle comprising in combination, a J-shaped body 212 having a first, shorter leg 222 having a first end (not numbered, but shown in figure 8 at the distal end of the first leg) and a second, longer leg 218 having a second

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end (not numbered, but shown in figure 9 where the latch member 214 engages the second leg), a latch member 214 disposed on said second end, a first flange 250 extending from the second leg proximate the latch member, a second flange 206 spaced from the first flange and extending from the second leg, and a third flange 226 extending from the body toward and engageable with an end of the second flange, the first and second flanges each including a surface having flocking 246 and 252 disposed thereupon, the shorter leg having a show surface covered with a layer 240, a member 242, a pair of ribs 236 disposed adjacent the latch member. Nowosaidly '631 is silent concerning a layer of thermoplastic olefin material.

However, Dover discloses a weatherstrip comprising a show surface including a layer 50 wherein the layer 50 comprises a thermoplastic olefin material. See column 4, lines 19-66.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631 with a thermoplastic olefin material, as taught by Dover, to improve the aesthetics of the seal by matching the color of the seal to the color scheme of the vehicle.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover as applied to claims 1, 2, 4, 5, 7, 16-18 and 20 above, and further in view of Belser et al. Belser et al. discloses a weatherstrip comprising flocking 30 and a show surface layer 40 having a thickness of less than 500 microns thick.

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It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631, as modified above, with a flocking, as taught by Belser et al., on the member adapted to contact the body of the vehicle and a show surface layer with a thickness of less than 500 microns, as taught by Belser et al., to provide a better seal between the weatherstrip and the body and to reduce the cost of manufacturing the weatherstrip, respectively.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover as applied to claims 9, 10, 12 and 14 above, and further in view of Belser et al. Belser et al. discloses a weatherstrip comprising flocking 30 and a show surface layer 40 having a thickness of less than 500 microns thick.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631, as modified above, with a flocking, as taught by Belser et al., on the member adapted to contact the body of the vehicle and a show surface layer with a thickness of less than 500 microns, as taught by Belser et al., to provide a better seal between the weatherstrip and the body and to reduce the cost of manufacturing the weatherstrip, respectively.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nowosiadly '631 in view of Dover as applied to claims 1, 2, 4, 5, 7, 16-18 and 20 above, and further in view of Belser et al. Belser et al. discloses a show surface layer 40 having a thickness of less than 500 microns thick.

It would have been obvious to one of ordinary skill in the art to provide Nowosiadly '631, as modified above, with a show surface layer with a thickness of less than 500 microns, as taught by Belser et al., to reduce the cost of manufacturing the weatherstrip, respectively.

Response to Arguments

Applicant's arguments filed April 25, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that Dover is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the teachings of Dover are reasonably pertinent to the particular problem with which the applicant was concerned since both Dover and the applicant were concerned with matching the color of a weatherstrip with the color of other elements of the vehicle. As noted in the rejection above, Nowosiadly '631 discloses a show surface, but is silent concerning the use of a thermoplastic olefin material as the show surface. Dover is being utilized only for the teachings of a thermoplastic olefin material as a show surface. One with ordinary skill in the art would consider all weather strips having show surfaces when trying to solve the problem of improving the appearance of the show surface of a belt line weather strip. A person that would only consider belt line weathers strips when

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confronted with said problem is a person having less skill than one with ordinary skill in the art.

With respect to the applicant's comment that Dover does not cure the defects of Nowosiadly '631, the examiner respectfully disagrees. First, the examiner is not stating that Dover cures the defect of Nowosiadly '631 failing to disclose a show layer because Nowosiadly '631 discloses the show layer 240. Second, the rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Since the applicant has failed to address the reasoning/rationale supplied by the examiner as to why the modification would have been obvious, the applicant's arguments are not persuasive. Additionally, Nowosiadly '631 discloses a flange since the element 226 comprises a projecting rib. It is unclear how the structure of element 54 of the applicant's disclosure comprises a flange while the structure of element 226 of Nowosiadly '631 does not comprise a flange. Since the two elements appear to be structurally equivalent, it is unclear how one can comprise a "flange" and the other not comprise a "flange".

Finally, the examiner respectfully disagrees with the applicant's comments concerning Belser et al. Belser et al. discloses the use of flocking to provide good sealing properties between the weather strip and the window pane. Thus, one with

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ordinary skill in the art would realize the benefit of providing flocking between the weather strip and another element such as the vehicle body. Accordingly, it would have been obvious to one of ordinary skill in the art to provide flocking between the weather strip member and the vehicle body to improve the seal therebetween.

Conclusion

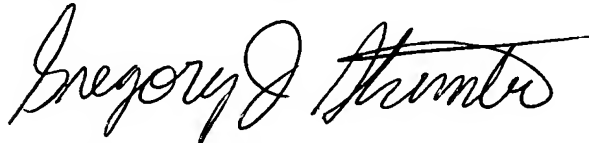
THIS ACTION IS NOT MADE FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu". The signature is fluid and cursive, with the first name "Gregory" being more legible than the last name "Strimbu".

Gregory J. Strimbu
Primary Examiner
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June 6, 2006